

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2079.04
COMPLAINT INVESTIGATOR:	Jennifer Campbell
DATE OF COMPLAINT:	December 22, 2003
DATE OF REPORT:	February 18, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	December 29, 2004

**COMPLAINT ISSUES:**

Whether the Nineveh-Hensley-Jackson United School Corporation and the Johnson County Special Services (JCSS) violated:

511 IAC 7-28-2 by failing to implement policies and procedures to assist the student who will be participating in the early childhood program experience a smooth and effective transition by the date of the student's third birthday.<sup>1</sup>

On January 21, 2004, the Director of Special Education granted an extension of time until February 4, 2004, due to the complexity of the issues. A second extension until February 18, 2004, was granted for the same reason.

**FINDINGS OF FACT:**

1. The Student was three years old on December 4, 2003, and is eligible for special education and related services as a student with a hearing impairment and a communication disorder.
2. At age two, the Student was diagnosed with a bilateral sensorineural hearing loss and was fitted with bilateral hearing aids in December 2002. Since October 2002, the Student had been receiving speech services from First Steps. In September 2003, the parents and the First Steps providers referred the Student to the School in order to receive early childhood special education for speech delays related to a hearing loss. Personnel changes at First Steps during the summer of 2003 impacted the referral process resulting in the referral being made less than six months prior to the Student's third birthday.
3. Subsequent to referring the Student for early childhood special education, the First Steps Service Coordinator (the Complainant) sent a letter at the request of the parents, inviting the School to the October 15, 2003, transition conference at the family home and provided the School with copies of the following documents:
  - the Speech and Language Evaluation, dated October 4, 2002;
  - the Speech and Language Therapy Quarterly Progress Report, dated January 29, 2003;
  - the Speech and Language Therapy Six Month Progress Report, dated April 9, 2003;
  - a letter from the Speech Pathologist to the First Steps Coordinator, dated May 6, 2003, requesting an increase in frequency of speech therapy for Student;

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<sup>1</sup> Although the complaint investigation originally included complaint issues involving alleged violations of 511 IAC 7-25-3(j) and 511 IAC 7-25-4, these issues were subsequently combined into the single issue cited here.

- the Educational Team Response to Request for Change in Services, approved, dated June 30, 2003; and
- the Speech and Language Therapy Third Quarter Report, dated July 14, 2003.

First Steps also submitted to the School on October 14, 2003, copies of the following documents:

- the Eligibility/Need for Service Report from the First Steps Eligibility Determination Team, dated October 8, 2003;
- the Quarterly Progress Report and Addendum concerning speech therapy from July to October of 2003, dated October 15, 2003; and
- the First Steps Part C Eligibility Determination Statement, dated October 15, 2003.

The First Steps educational team determined the Student eligible for early intervention services, and the Speech Pathologist reported that the Student showed a 32% delay in language skills.

4. As a result of the First Steps referral, the School sent the parents its Ages and Stages Questionnaire (ASQ). The ASQ is a parent-completed questionnaire, used by the school as a screening instrument to gather information on the child's current skill levels. The School "scores" the answers on the questionnaire and sends the parent a letter entitled "Preschool Developmental Screening Results." The letter identifies whether the child skill development in six areas is age appropriate or may need further evaluation. The letter concludes with one of the following being checked:
  - "The results indicate your child's overall development is age appropriate and no further evaluation is recommended at this time." It also advises the parents that, if they have concerns about the child's development in the future, they may call the School to discuss those concerns.
  - "The results indicate possible developmental delays in one or more areas and further evaluation is recommended." The parent is asked to contact identified school personnel as soon as possible.
  - "The results indicate a possible delay in speech," and the parent is asked to contact the identified speech therapist to set up a screening date.

The First Steps Service Coordinator conducted the transition conference on October 15, 2003; however, no School personnel attended. The Director stated the School thought the transition conference had been canceled, but could provide no documentation regarding such cancellation. On that same day, the School sent the "Preschool Developmental Screening Results" letter to the parents. The third box was checked, indicating the School's determination that the student may have some speech delays and instructing the parents to contact a speech therapist to set up a screening date. The letter did not include any information regarding the criteria for an initial comprehensive evaluation or the role of the CCC in determining evaluation needs or the student's eligibility for special education services.

5. The Speech Pathologist evaluated the Student's speech on November 12, 2003. In a report, dated November 18, 2003, the Speech Pathologist recommended a comprehensive educational evaluation for the Student.
6. A second transition conference, attended by School personnel, was conducted on November 19, 2003; the School convened the initial CCC meeting later that same day. The CCC determined the Student to be eligible for special education and related services and in need of speech services once a week, thirty minutes each session. The CCC determined measurable annual goals, placement in an Early Childhood Special Education Program, and a December 4, 2003, start date for services. The CCC agreed to implement the individualized education program (IEP) while a comprehensive educational evaluation was conducted. Permission for the educational evaluations was obtained from the parent that day.
7. A Multidisciplinary Educational Evaluation Team was assigned to the Student on November 26, 2003, and the evaluations were completed on January 7, 2004. The Student began attending the pre-school

program on January 7, 2004. According to the Student's Pre-School Teacher, the Student was unable to attend school after his third birthday in December until January 7 because of the flu, and the Complainant confirmed this information.

8. The School does not have written policies or procedures to address those situations in which First Steps service providers fail to comply with the transition timelines for providing information to the School and jeopardize a smooth and effective transition from Part C to Part B services by the child's third birthday.

## **CONCLUSION:**

Findings of Fact #1 through #8 indicate that, despite the First Steps program's failure to transmit the necessary information at least six months prior to the Student's third birthday, the School ensured that the CCC developed an IEP for the Student and that services were available for implementation by the Student's third birthday. Therefore, no violation of 511 IAC 7-28-2 is found. However, Findings of Fact # 4 and #5 reflect that the format and the manner in which the "Preschool Developmental Screenings Result" is used are problematic. These problems are addressed further in the "Discussion" section below.

## **DISCUSSION:**

The School may utilize the ASQ as a screening tool or as part of a comprehensive multi-disciplinary evaluation. However, the ASQ may not be used as the single piece of information to determine the need for a more comprehensive evaluation, nor may it be used as the sole evaluation instrument in determining a student's eligibility for special education and related services. Based on the language of the "Preschool Development Screening Results" letter, it appears that the ASQ is, in fact, used for these purposes. For example, if the first box on the screening results letter is checked, it indicates that the School has made the determination that no further evaluation is necessary. There is no information about the parent's right to request an initial evaluation or the CCC's responsibility to make a determination of the child's eligibility for special education. The language of the screening letter, without more, leads parents to believe that the eligibility determination has been made. The only recourse they are provided is to contact the school if they have future concerns about their child's development. They are provided no other information or options.

The screening results letter fails to provide parents with sufficient information regarding the purpose of the ASQ, the role of the CCC in determining if additional evaluative information is needed, or the CCC's responsibility to determine a student's eligibility for special education. Although the other two options listed in the screening results letter deal with the need for further evaluation, they also lack information about the parent's and CCC's role in: (1) considering other available information about the student, (2) determining the need for further evaluative information, (3) reviewing evaluation results, or (4) determining the student's eligibility for special education.

Because of the potential for misunderstanding and confusion surrounding the purpose and School's use of the ASQ for students referred for early childhood special education services, the following corrective action is required:

## **CORRECTIVE ACTION:**

The Johnson County Special Services and its member school corporations shall:

1. immediately discontinue their use of the "Preschool Developmental Screening Results" letter as it is currently written. Appropriate staff must be notified by February 26, 2004, that this letter is no longer to be used. The school and the cooperative shall submit a written assurance statement to

the Division, no later than March 5, 2004, that the letter is no longer being used and that all appropriate staff have been notified.

2. submit any proposed replacement form letter to the Division for review and approval before formally instituting its use throughout the cooperative.